



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Kelly Good	)	Examiner: Newhouse, Nathan
		)	Jeffrey
Serial No.:	10/606,627	)	Art Unit: 3727
Filed:	06/25/2003	)	Attorneys Ref.: P214379
Title:	HOLDING APPARATUS AND METHOD	)	
	FOR DISPENSERS OF HARDENABLE	)	
	MATERIALS	)	

**DECLARATION OF WAYNE BIEHLE**

I, Wayne Biehle, having a mailing address of P.O. Box 356, Everson, Washington 98247, state and aver the following:

1. I have been asked by Mr. Kelly Good, the Applicant named in this U.S. Patent Application Serial No. 10/606,627, to comment on certain matters of which I have knowledge. I hereby declare that all statements herein made of my own knowledge are true and that all statements herein made on information and belief are believed to be true.
2. I am currently a self-employed carpenter. I have been in the construction industry for approximately 16 years. I consider myself of at least ordinary skill in the roofing trade. In addition, I have no financial relationship with Kelly Good nor any financial interest in the invention claimed in the '780 application.
3. I have had a chance to look at U.S. Patent Nos. 6,491,191 to Cleveland, 5,295,601 to Bostelman, 5,302,302 to Shelley et al., and 4,588,116 to Litman.
4. For approximately 2 years, I have used a product sold under the trademark Caulked N' Ready. The Caulked N' Ready caulking gun holder is one of the handiest tools I have seen and used. I use caulking on a regular basis and can say without a doubt that this holder helps me in more ways than one. It saves me time and money by not having to continually go to the store and re-purchase tubes of caulking because the other tube's tips have dried out or the tip has been cut and no longer provides the bead size of caulk I need. The Caulked N' Ready caulking

gun holder allows me to use both of my hands where normally one would be hanging on to the caulking gun and dripping all over.

5. The Caulked N' Ready product is a holder configured to hold dispensing guns for product cartridges containing materials such as adhesives and caulking materials. The Caulked N' Ready product comprises a holding structure defining a side wall and a bottom wall. The structure defines a main opening and a holding chamber, and a plug projection extends from the bottom wall into the holding chamber. The holding chamber is sized and dimensioned to receive the product cartridge.

6. I do not think that the Cleveland and Bostelman patents, taken alone or in combination, disclose, teach, or suggest to one of ordinary skill in the art the Caulked N' Ready product as described in paragraph 5 above. In particular, the Bostelman device is intended to engage the tip of the product cartridge directly and not to be attached to a holster such as the holster shown in the Cleveland patent

7. The Caulked N' Ready product further has at least one wall opening formed in the holding structure adjacent to the plug projection.

8. I further do not think that the Cleveland, Bostelman, and Shelley patents, taken alone or in combination, disclose, teach, or suggest to one of ordinary skill in the art the Caulked N' Ready product as described in paragraph 7 above. Again, I do not believe that one of ordinary skill in the art would modify either the Cleveland or the Shelley holster to incorporate the Bostelman device. Further, the blind slot 18 in the Shelley holster is provided only to allow the aerosol container stored therein to be lifted and not to provide access to a plug projection.

9. The Caulked N' Ready product further has a plurality of guide ribs that extend from the side wall into the holding chamber. When the product cartridge is placed into the holding chamber, at least one of the guide ribs engages a portion of the dispensing system to facilitate entry of the plug projection into the dispensing opening.

10. I further do not think that the Cleveland, Bostelman, and Litman patents, taken alone or in combination, disclose, teach, or suggest to one of ordinary skill in the art the Caulked N' Ready product as described in paragraph 9 above. The Litman patent discloses ribs 30, but

describes these ribs 30 as being flexible to facilitate a snug fit and ease of withdrawal of the item stored in the holster 10. The ribs described in the Litman patent are not guides, and certainly do not disclose, teach, or suggest a structure that would facilitate entry of the plug projection into the dispensing opening.

11. In summary, I have reviewed the patents cited by the Patent Office of different devices and can honestly say that I don't see how you would take different parts from the products shown and put them together to come up with the Caulked N' Ready caulking gun holder. I definitely consider myself one of ordinary skill in the construction trade and do not connect these items.

12. I, Wayne Biehle, hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and, further, that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

EXECUTED this \_\_\_\_\_ day of August, 2005.

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Wayne Biehle